

APPEAL NO. 040349
FILED APRIL 8, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 21, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable repetitive trauma injury with a date of injury of _____, and that she had disability from August 1, 2003, through the date of the hearing. The appellant (carrier) appeals these determinations. The claimant urges affirmance of the hearing officer's decision.

DECISION

Affirmed as reformed.

Whether the claimant sustained a compensable injury and had disability were factual questions for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer's compensability and disability determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). However, the carrier asserts and the evidence reflects that the claimed injury occurred over a period of five hours on _____. Therefore, this is a specific injury rather than a repetitive trauma injury. Texas Workers' Compensation Appeal No. 992851, decided January 27, 2000. Accordingly, we reform Conclusion of Law No. 3 as follows: "The claimant sustained a compensable injury on _____."

The carrier additionally argues that the claimant was required to demonstrate that her injury was not an ordinary disease of life. To that argument, we respond that the hearing officer found that the claimant sustained a compensable injury, that is, an injury in the course and scope of her employment, and the evidence sufficiently supports that determination. The claimant met her burden of proof and was not further required to prove that her injury was not an ordinary disease of life.

The decision and order of the hearing officer are affirmed as reformed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Veronica L. Ruberto
Appeals Judge